

1 EDMUND G. BROWN JR.
2 Attorney General of the State of California
3 DANE R. GILLETTE
4 Chief Assistant Attorney General
5 GARY W. SCHONS
6 Senior Assistant Attorney General
7 KEVIN VIENNA
8 Supervising Deputy Attorney General
9 ERIKA HIRAMATSU, State Bar No. 190883
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2224
Fax: (619) 645-2191
Email: Erika.Hiramatsu@doj.ca.gov

10 | Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 EDWARD MARTIN SAENZ, JR.,

Petitioner,

V.

**SECRETARY OF THE DEPT. OF CORR.
AND REHAB., et al.,**

08-0566 WQH (JMA)

**NOTICE OF MOTION AND
MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS**

(Oral Argument Not Requested)

The Honorable Jan M. Adler
United States Magistrate Judge

22 TO PETITIONER **EDWARD MARTIN SAENZ, Jr.** *PRO SE*: PLEASE TAKE
23 NOTICE that Respondent hereby moves this Court for an order dismissing the Petition for Writ of
24 Habeas Corpus because it is barred by the statute of limitations. This motion is based on this Notice
25 of Motion and Motion, the accompanying Memorandum of Points and Authorities, and any further
26 pleadings, records, or other documents filed or lodged in this action.

27 | //

28 | //

1 WHEREFORE, Respondent respectfully requests the Petition be dismissed with prejudice.
2

3 Dated: September 10, 2008
4

5 Respectfully submitted,
6

7 EDMUND G. BROWN JR.
8 Attorney General of the State of California
9

10 DANE R. GILLETTE
11 Chief Assistant Attorney General
12

13 GARY W. SCHONS
14 Senior Assistant Attorney General
15

16 KEVIN VIENNA
17 Supervising Deputy Attorney General
18

19 s/ Erika Hiramatsu
20 ERIKA HIRAMATSU
21 Deputy Attorney General
22 Attorneys for Respondent
23

24 80280436.wpd
25 SD2008700706
26
27
28

1 **CERTIFICATE OF SERVICE BY U.S. MAIL**

2 Case Name: **Saenz v. Dept. of Corrections**

3 No.: **08-0566 WQH (JMA)**

4 I declare:

5 I am employed in the Office of the Attorney General, which is the office of a member of the
6 California State Bar, at which member's direction this service is made. I am 18 years of age or older
7 and not a party to this matter. I am familiar with the business practice at the Office of the Attorney
8 General for collection and processing of correspondence for mailing with the United States Postal
Service. In accordance with that practice, correspondence placed in the internal mail collection
system at the Office of the Attorney General is deposited with the United States Postal Service that
same day in the ordinary course of business.

9 On September 10, 2008, I served the following documents:

10 **NOTICE OF MOTION AND MOTION TO DISMISS; MEMORANDUM OF**
11 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS; and**
12 **NOTICE OF LODGMENT IN 28 U.S.C. § 2254 HABEAS CORPUS CASE -**
13 **TO BE SENT TO CLERK'S OFFICE**

14 by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in
15 the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite
16 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

17 Edward Saenz, Jr.
18 461 5th Avenue, # 20
19 San Diego, CA 92101

20 *Pro Se*

21 **Electronic Mail Notice List**

22 I have caused the above-mentioned document(s) to be electronically served on the following
23 person(s), who are currently on the list to receive e-mail notices for this case: None

24 **Manual Notice List**

25 The following are those who are **not** on the list to receive e-mail notices for this case (who therefore
26 require manual noticing): **Edward Saenz, Jr.**, at the above-named address.

27 I declare under penalty of perjury under the laws of the State of California the foregoing is true and
28 correct and that this declaration was executed on September 10, 2008, at San Diego, California.

29 Bonnie Peak

30 Declarant



31 Signature

32 SD2008700706

33 80280626.wpd